

Special Civil Application No 1157 of 1988

Date of decision: 19/02/96

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

Shree Narayannagar C-operative Housing Society Ltd.

vs.

State of Gujarat & Anr.

Appearance:

Shri J.R. Nanavaty, Advocate, for the Petitioner

Shri D.N. Patel, Asst. Govt. Pleader, for the  
Respondents

Coram : MR.JUSTICE A.N.DIVECHA

#### ORAL JUDGEMENT

The order passed by and on behalf of the State of Gujarat (respondent No. 1 herein) on 3rd December 1987 under sec. 20(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (the Act for brief) is under challenge in this petition under art. 226 of the Constitution of India. By its impugned order, respondent No.1 rejected the petitioner's application for grant of exemption under sec. 20(1) of the Act.

2. The facts giving rise to this petition move in a narrow compass. It appears that the petitioner is a co-operative housing society and it appears to have agreed to purchase certain parcels of land bearing Survey No. 331, 332 and 333 in

all admeasuring 44666.74 square meters situated at Rajkot. In accordance with the prevalent practice pursuant to the circular issued by and on behalf of respondent No.1, the petitioner together with the original land-holder applied for exemption under sec. 20(1) of the Act with respect to the aforesaid parcels of land. Its copy together with the necessary annexures is at Annexure B to this petition. After hearing the parties, by the order passed on 3rd December 1987, respondent No.1 rejected it. Its copy is at Annexure C to this petition. The aggrieved petitioner has thereupon approached this Court by means of this petition under art. 226 of the Constitution of India for questioning the correctness of the order at Annexure C to this petition.

3. It is not necessary to examine the merits of this case for the simple reason that this petition cannot be entertained in view of the binding ruling of the Supreme Court in the case of S. Vasudeva v. State of Karnataka and others reported in AIR 1994 Supreme Court 923. It has been held therein that exemption under sec. 20 of the Act cannot be granted for the purpose of transferring the land in favour of any other person.

4. The aforesaid binding ruling of the Supreme Court is on all fours applicable in the present case. Exemption under sec. 20 of the Act was sought in this case for transfer of the aforesaid parcels of land in favour of the petitioner herein. That cannot be permitted to be done in view of the aforesaid binding ruling of the Supreme Court. In that view of the matter, this petition cannot be accepted.

5. In the result, this petition fails. It is hereby rejected. Rule is accordingly discharged with no order as to costs.

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